

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:21-cr-00152-DGK-2
)	
JAI LYNN BENNION,)	
)	
Defendant.)	

ORDER DENYING MOTION TO AMEND THE PSR

Now before the Court is Defendant’s pro se motion to amend/correct her PSR. ECF No. 235. Defendant requests the Court correct two “errors” in her presentence investigation report (“PSR”) to improve her chances for admittance into the residential drug abuse program (“RDAP”). The purported “errors” are the date she first used methamphetamine—Defendant claims she was age 20, not 17—and the date of her last drug use—Defendant claims she last used on the day she was taken into custody, June 23, 2021, not 2019. Defendant alleges she asked her lawyer to fix this before sentencing, but he told her it was not a big deal.

The Court holds that under the circumstances it lacks the power to grant Defendant’s request. Federal Rule of Criminal Procedure 36 provides that at any time the Court can correct a clerical error, such as a typographical error, in any part of the record. But the Court is not convinced that the above information concerning Defendant’s drug use is a clerical error. The Eighth Circuit has made clear that a prisoner must address “any inaccuracies in the PSR pursuant to Rule 32 [which sets out the procedure for objecting to information in the PSR] at or before sentencing.” *United States v. Long*, 434 F. App’x 567, 567-68 (8th Cir. 2011). Rule 36 cannot be used for something “which involves far more than correction of a clerical error,” such as modifying a defendant’s PSR to improve her chances of participating in the RDAP program. *Id.* at 568; *see Christian v. Willis*, No.

CIV 14-4020, 2014 WL 3697991, at *5 (D.S.D. July 24, 2014) (declining to amend the PSR under Rule 36 where it appeared the defendant was alleging a clerical error to change the PSR so he could enter the RDAP program).

Accordingly, the motion is DENIED.

IT IS SO ORDERED.

Dated: July 11, 2024

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT JUDGE